

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0801-PST-E **TCEQ ID:** RN102433745 **CASE NO.:** 33553
RESPONDENT NAME: Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Tiger Mark II, 404 South Broadway, Premont, Jim Wells County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 7, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mark A. Alaniz, Vice President, Cantu-Alaniz-Martinez, Inc., 404 South Broadway, Premont, Texas 78735 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0801-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: March 9, 2007 Date of NOV/NOE Relating to this Case: May 16, 2007 (NOE) Background Facts: This was a routine investigation. Five violations were documented WASTE 1) Failed to have a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which contained regulated substances [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 2) Failed to provide proper release detection for the pressurized piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)]. 3) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 4) Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)]. 5) Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, on February 1, 2007, Cantu-Alaniz-Martinez notified the	Total Assessed: \$9,000 Total Deferred: \$1,800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid (Due) to General Revenue: \$300 (remaining \$6,900 due in 23 monthly payments of \$300 each) Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002	Ordering Provisions: The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Conduct an investigation of the suspected release and implement appropriate corrective measures; and ii. Install and implement a release detection method for the USTs and the piping associated with the USTs, test the line leak detectors for performance and operational reliability and begin conducting inventory control reconciliation. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provisions a.i. and a.ii.

TCEQ Corpus Christi Regional Office of a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74(1)].		
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Additional ID No(s): PST 1907



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES

Assigned

21-May-2007

PCW

22-May-2007

Screening

22-May-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Reg. Ent. Ref. No. RN102433745

Facility/Site Region 14-Corpus Christi

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33553

Docket No. 2007-0801-PST-E

Media Program(s) Petroleum Storage Tank

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Rajesh Acharya

EC's Team Enforcement Team 6

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

-10% Enhancement

Subtotals 2, 3, & 7 -\$1,000

Notes

Reduction for High Performer classification.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The respondent does not meet the good faith criteria.

Total EB Amounts \$1,368
Approx. Cost of Compliance \$7,500

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$9,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$9,000

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$9,000

DEFERRAL

20%

Reduction

Adjustment -\$1,800

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$7,200

Screening Date 22-May-2007

Docket No. 2007-0801-PST-E

PCW

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Policy Revision 2 (September 2002)

Case ID No. 33553

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102433745

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 22-May-2007

Docket No. 2007-0801-PST-E

PCW

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Policy Revision 2 (September 2002)

Case ID No. 33553

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102433745

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances. Failed to provide proper release detection for the pressurized piping associated with the USTs. Failed to test the line leak detectors at least once per year for performance and operational reliability. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

74 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of March 9, 2007 to the screening date of May 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,159

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II
Case ID No. 33553
Reg. Ent. Reference No. RN102433745
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	9-Mar-2007	9-Jan-2008	0.8	\$63	n/a	\$63

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the date of investigation. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	9-Mar-2006	9-Mar-2007	1.9	\$96	\$1,000	\$1,096

Notes for AVOIDED costs

Estimated cost to conduct annual piping tightness and line leak detector tests. Date Required is one year prior to the investigation and final date is the investigation date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,159

Screening Date 22-May-2007

Docket No. 2007-0801-PST-E

PCW

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Policy Revision 2 (September 2002)

Case ID No. 33553

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102433745

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74(1)

Violation Description Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, on February 1, 2007, the respondent notified the TCEQ Corpus Christi Regional Office of a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 80 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the release investigation due date of March 3, 2007 to the May 22, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II
Case ID No. 33553
Reg. Ent. Reference No. RN102433745
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	3-Mar-2007	3-Jan-2008	0.8	\$210	n/a	\$210

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The Date Required is the date the release investigation was due. The Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$210

Compliance History

Customer/Respondent/Owner-Operator:	CN602732968	Cantu-Alaniz-Martinez, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102433745	TIGER MARK II	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	1907	
Location:	404 S BROADWAY, PREMONT, TX, 78375	Rating Date: 9/1/2006	Repeat Violator: NO	
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	May 25, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 25, 2002 to May 25, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Cantu-Alaniz-Martinez, Inc.
4. If Yes, who was/were the prior owner(s)? Wright Petroleum Company, Inc.
5. When did the change(s) in ownership occur? 02/01/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 04/09/2003 (28670)
2 05/16/2007 (559840)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CANTU-ALANIZ-MARTINEZ, INC.
DBA TIGER MARK II
RN102433745**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0801-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II ("Cantu-Alaniz-Martinez") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Cantu-Alaniz-Martinez appear before the Commission and together stipulate that:

1. Cantu-Alaniz-Martinez owns and operates a convenience store with retail sales of gasoline at 404 South Broadway in Premont, Jim Wells County, Texas (the "Facility").
2. Cantu-Alaniz-Martinez' two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and Cantu-Alaniz-Martinez agree that the Commission has jurisdiction to enter this Agreed Order, and that Cantu-Alaniz-Martinez is subject to the Commission's jurisdiction.
4. Cantu-Alaniz-Martinez received notice of the violations alleged in Section II ("Allegations") on or about May 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cantu-Alaniz-Martinez of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Dollars (\$9,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Cantu-Alaniz-

Martinez has paid Three Hundred Dollars (\$300) of the administrative penalty and One Thousand Eight Hundred Dollars (\$1,800) is deferred contingent upon Cantu-Alaniz-Martinez' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Cantu-Alaniz-Martinez fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Cantu-Alaniz-Martinez to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Nine Hundred Dollars (\$6,900) of the administrative penalty shall be payable in 23 monthly payments of Three Hundred Dollars (\$300) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Cantu-Alaniz-Martinez fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Cantu-Alaniz-Martinez to meet the payment schedule of this Agreed Order constitutes the failure by Cantu-Alaniz-Martinez to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Cantu-Alaniz-Martinez have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Cantu-Alaniz-Martinez has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, Cantu-Alaniz-Martinez is alleged to have:

1. Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances, in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 9, 2007.

2. Failed to provide proper release detection for the pressurized piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 9, 2007.
3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 9, 2007.
4. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 9, 2007.
5. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74(1), as documented during an investigation conducted on March 9, 2007. Specifically, on February 1, 2007, Cantu-Alaniz-Martinez notified the TCEQ Corpus Christi Regional Office of a suspected release that was not investigated.

III. DENIALS

Cantu-Alaniz-Martinez generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Cantu-Alaniz-Martinez pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Cantu-Alaniz-Martinez' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II, Docket No. 2007-0801-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that Cantu-Alaniz-Martinez shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 337.74; and

- ii. Install and implement a release detection method for the USTs and the piping associated with the USTs, test the line leak detectors for performance and operational reliability and begin conducting inventory control reconciliation, in accordance with 30 TEX. ADMIN. CODE § 334.50.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-30870

with a copy to:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon Cantu-Alaniz-Martinez. Cantu-Alaniz-Martinez is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Cantu-Alaniz-Martinez fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Cantu-Alaniz-Martinez' failure to comply is not a violation of this Agreed Order. Cantu-Alaniz-Martinez shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Cantu-Alaniz-Martinez shall notify the Executive Director within seven days after Cantu-Alaniz-Martinez becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

The first of these is the fact that the
theoretical model of the system is
based on the assumption that the
system is in a steady state. This
assumption is not valid for the
system under consideration, and
the results of the analysis are
therefore invalid.

The second of these is the fact that
the theoretical model of the system
is based on the assumption that the
system is in a steady state. This
assumption is not valid for the
system under consideration, and
the results of the analysis are
therefore invalid.

The third of these is the fact that
the theoretical model of the system
is based on the assumption that the
system is in a steady state. This
assumption is not valid for the
system under consideration, and
the results of the analysis are
therefore invalid.

The fourth of these is the fact that
the theoretical model of the system
is based on the assumption that the
system is in a steady state. This
assumption is not valid for the
system under consideration, and
the results of the analysis are
therefore invalid.

The fifth of these is the fact that
the theoretical model of the system
is based on the assumption that the
system is in a steady state. This
assumption is not valid for the
system under consideration, and
the results of the analysis are
therefore invalid.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Cantu-Alaniz-Martinez shall be made in writing to the Executive Director. Extensions are not effective until Cantu-Alaniz-Martinez receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Cantu-Alaniz-Martinez in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Cantu-Alaniz-Martinez, or three days after the date on which the Commission mails notice of the Order to Cantu-Alaniz-Martinez, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

12/03/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

[Signature]
Date

[Signature]
Name (Printed or typed)

[Signature]
Title

Authorized Representative of
Cantu-Alaniz-Martinez, Inc. dba Tiger Mark II

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

